

Message Text

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ORIGIN XMB-07

INFO OCT-01 ARA-16 ISO-00 EB-11 L-03 AID-20 CIAE-00

COME-00 FRB-02 INR-10 NSAE-00 RSC-01 TRSE-00 OPIC-12

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ARA/APU-MR. DAVIS

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R 231609Z NOV 73

FM SECSTATE WASHDC

TO AMEMBASSY BUENOS AIRES

UNCLAS STATE 230566

E.O. 11652 N/A

TAGS: ETRD, US, AR, EMB8378 (KREBS PASS ECONOMIC OFFICER)

SUBJ: AGUA Y ENERGIA ELECTRICA PROJECTS

REF: A) BUENOS AIRES 6794; B) BA 7595

1. RE YOUR CABLE ON A Y EE PROJECT, LUJAN DE CUYO PROJECT, EXIMBANK REQUIREMENTS FOR ARGENTINA, AND STANDARD CREDIT AGREEMENT APPLICATION TO GOVERNMENT BUYERS.

2. EXIMBANK NO LONGER REQUIRES COUNTER GUARANTEE OF MINISTER OF FINANCE IF GUARANTEE IS PROVIDED BY BANCO DE LA NACION OR BANCO NACIONAL DE DESARROLLO FOR GOVERNMENT BUYERS IN THAT WE HAVE RECEIVED A LEGAL OPINION FROM THE PROCURATOR OF THE TREASURY INDICATING THAT THE GOVERNMENT STANDS BEHIND THE GUARANTEE OF EITHER BANK.

FURTHERMORE, FOR ANY GOVERNMENT BUYER WE WOULD REQUIRE THE GUARANTEE OF EITHER ABOVE REFERENCED BANK OR THE MINISTERIO DE ECONOMIA. THAT IS THE MEANING OF THE NEW GUARANTOR PHRASE YOU UNCLASSIFIED

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ARE SEEING IN OUR PRELIMINARY COMMITMENT LETTERS. FOR PRIVATE

BUYER'S DETERMINATION OF THE NECESSITY OF A GUARANTOR WILL BE
MADE ON A CASE-BY-CASE BASIS
DEPENDING ON FINANCIAL CONDITION.

3. ALL AGREEMENTS WITH ANY BORROWER IN ANY COUNTRY WILL BE
GOVERNED BY THE LAWS OF DISTRICT OF COLUMBIA OR UPON CONSENT BY
EXIM LAWS OF THE STATE OF THE PARTICIPATING U.S. COMMERCIAL
BANK. IN NO EVENT HAVE WE WAIVED OR WILL WE WAIVE THIS REQUIREMENT.
I REFER TO YOU THE DIRECCION GENERAL DE FABRICACIONES MILITARES
AND PETROQUIMICA BAHIA BALANCA AGREEMENTS.

4. NEGATIVE COVENANTS CONTAINED IN PARAGRAPH C OF ARTICLE V
OF STANDARD AGREEMENT INITIALLY SHOULD BE RETAINED FOR EACH
PRIVATE BORROWER. OF COURSE, APPROPRIATE MODIFICATIONS WOULD BE
MADE FOR PUBLIC BORROWERS. FURTHERMORE, APPROPRIATE MODIFICATIONS
MIGHT BE MADE FOR PRIVATE BORROWERS ON A CASE-BY-CASE BASIS;
HOWEVER, GENERALLY EXIM, AS A LENDER, MUST MAINTAIN SOME
PROTECTIVE CONTROL OF BORROWER'S ACTIVITIES BUT NOTE THAT EXIM MAY
WAIVER ANY REQUIREMENT THEREIN UPON WRITTEN REQUEST OF THE
BORROWER.

5. REQUEST THAT, IF POSSIBLE, YOU AVOID TELLING A YEE THEIR
AGREEMENT CAN BE BASED ON DIRECCION GENERAL DE FABRICACIONES
MILITARES OR PETROQUIMICA BAHIA BLANCA AGREEMENTS. THOSE WERE BOTH
MATTERS OF PROLONGED NEGOTIATIONS AND WE WOULD PREFER TO BEGIN
WITH A YEE FROM A STANDARD AGREEMENT, AS MODIFIED BY THE
PARTICULAR FACTS OF THE TRANSACTION. IF THEY ARE AWARE OF THESE
TWO AGREEMENTS, WE WILL PROBABLY FOLLOW THEM SUBSTANTIALLY UNLESS
CIRCUMSTANCES UNIQUE TO A YEE WOULD
DICTATE DIFFERENT LANGUAGE.

6. EXIM NOT PREPARED TO SEND SPECIFIC LEGAL LANGUAGE SINCE ALL
FACTS SURROUNDING TRANSACTION ARE NOT FINALIZED AND EXIM HAS NOT
ISSUED FINAL COMMITMENT. KISSINGER

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